UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
--------------------------------X
BALANCE PAYMENTS, INC. d/b/a
BALANCE,

               Plaintiff,

         - against -

CHARLES JAMES AND CB IMPORTS
LLC,

             Defendants.

--------------------------------X

ORDER
23 Civ. 3965 (NRB)

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

    WHEREAS, on May 12, 2023 plaintiff Balance Payments, Inc. d/b/a Balance ("plaintiff") filed a complaint against bicycle importer CB Imports LLC ("CB Imports") and its manager, Charles James (collectively, "defendants"), for (1) breach of contract; (2) unjust enrichment damages; (3) fraud; (4) specific performance; and (5) piercing the corporate veil (ECF No. 1 ¶¶ 34-60); and

    WHEREAS, on June 15, 2023, after defendants failed to plead or otherwise defend the case, the Clerk of Court entered plaintiff's proposed certificate of default (ECF No. 11); and

    WHEREAS, on July 24, 2023, plaintiff moved for the entry of a default judgment with respect to its breach of contract, fraud, and piercing the corporate veil claims, seeking damages of $805,946.72, attorneys' fees and costs of $13,576.08, prejudgment

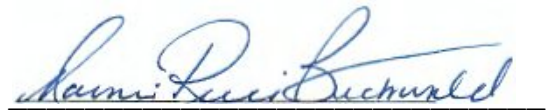interest, and post-judgment interest (ECF No. 12 at 6, 7, 10-11); and

WHEREAS, the Court examined the motion for default judgment and docketed a letter on October 30, 2023, setting out six substantive deficiencies in its filing and stating that it would "consider any properly supported motion for the entry of a default judgment" (ECF No. 13); and

WHEREAS, the Court further directed plaintiff "to serve any future submission in the manner required for the service of a summons and complaint" (Id.); and

WHEREAS, plaintiff failed to follow directions of the Court and instead sought to file an unauthorized amended complaint, for which there is no record of service (ECF Nos. 14-16); it is hereby

ORDERED that plaintiff's motion for default judgment is denied and this case is dismissed without prejudice.

Dated: June 13, 2024
           New York, New York

_____
     NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

-2-